

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DAVID GOLDSTINE,

Plaintiff,

v.

FEDEX FREIGHT, INC., a Washington State  
entity; "DOE(S) 1-100", employees of  
FEDEX FREIGHT, INC.; and  
CORPORATION(S) XYZ 1-100,

Defendants.

Case No. 2:18-cv-01164 MJP

**DECLARATION OF ADA K. WONG  
IN SUPPORT OF PLAINTIFF'S  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

I, Ada K. Wong, declare,

1. I am one of the attorneys of record for Plaintiff David Goldstine in this matter and make the following statements based on my personal knowledge.

2. On March 20, 2019, Plaintiff served a request for production of documents seeking the basis for defendant FedEx Freight Inc.'s (hereinafter "FedEx") affirmative defenses, specifically nos. 3 (exhaust administrative remedies), 4 (administrative charge), 6 (insufficient or untimely filing with WA HRC), 7 (anti-discrimination policies), 8 (malice), 11 (mitigate damages), and 12 (interactive process). In each, Plaintiff specified the contention asserted by Defendant and asked Defendant to "[p]lease produce any and all documents that

1 in any way refer to, relate to, support, or contradict the allegation” to the specific affirmative  
2 defense. Attached hereto as **Exhibit A** is a true and correct copy of Plaintiff’s March 20, 2019  
3 request for production of documents.

4 3. On April 26, 2019, Defendant served “responses” to Plaintiff’s March 20, 2019  
5 requests for production of documents. Attached hereto as **Exhibit B** is a true and correct copy  
6 of Defendant’s April 26, 2019 responses to Plaintiff’s March 20, 2019 request for production  
7 of documents.

8 4. On May 24, 2019, Defendant served its “responses” to Plaintiff’s second set of  
9 requests for admission. Attached hereto as **Exhibit C** is a true and correct copy of Defendant’s  
10 May 24, 2019 responses to Plaintiff’s second set of requests for admission.

11 5. On January 23, 2019, Plaintiff served his initial Rule 30(b)(6) Notice of  
12 Deposition seeking testimony on “[a]ll facts related to Defendant’s affirmative defenses” and  
13 specifically listed all 13 affirmative defenses. Attached hereto as **Exhibit D** is a true and  
14 correct copy of Plaintiff’s January 23, 2019 Rule 30(b)(6) Notice of Deposition.

15 6. After numerous scheduling conflicts and serial postponements, FedEx  
16 presented six 30(b)(6) designees, none of which were designated for the 13 affirmative  
17 defenses besides a slight reference to affirmative defense no. 12 (interactive process), to which  
18 defense counsel objected to for the specific topic.

19 7. On March 8, 2019, defense counsel Donald Snook e-mailed me the names of  
20 the witnesses FedEx was designating for the Rule 30(b)(6) deposition, specifically stating that  
21 Paragraph 45 (requesting facts related to all of Defendant’s affirmative defense) “contains  
22 subjects that are legal conclusions and would invade the attorney client privilege as they are  
23 legal defenses presented by FedEx Legal counsel. For those that involve “facts” as opposed

1 to legal arguments, Mr. App[e]sland will answer them.” Attached hereto as **Exhibit E** is a true  
2 and correct copy of the e-mail from Mr. Snook dated March 8, 2019.

3 8. On April 16, 2019, I took the deposition of Mr. Appesland as the designated  
4 Rule 30(b)(6) witness. I showed him a copy of the Notice, which he notated, indicating what  
5 he may testify regarding in his corporate representative capacity by circling said topics and  
6 crossing out what he is unable to testify regarding. He crossed out topic no. 45 in its entirety.  
7 Attached hereto as **Exhibit F** is a true and correct copy of Exhibit 24 to the Rule 30(b)(6)  
8 deposition of Mr. Appesland.

9 I declare under penalty of perjury under the laws of the State of Washington that the  
10 foregoing is true and correct and is based upon my personal knowledge.

11 **DATED** August 8, 2019, in Mountlake Terrace, WA.

12 /s/ Ada K. Wong

13 Ada K. Wong, WSBA #45936  
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**CERTIFICATE OF SERVICE**

I hereby certify that on August 8, 2019, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Medora A. Marisseau  
Karr Tuttle Campbell  
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Donald H. Snook, TN Bar #21775  
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*Counsel for Defendant FedEx Freight, Inc.*

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 8<sup>th</sup> day of August, 2019.

/s/ Kaila A. Eckert

Kaila A. Eckert, Paralegal